

Prepared Statement

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Before the

**Committee on Government Reform
U.S. House of Representatives**

On

**A Review of Security Clearance Backlog and Reciprocity Issues Plaguing Today's
Government and Private Sector Workforce**

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Chairman Davis, Mr. Waxman, and members of the Committee on Government Reform, I am Heather Anderson, Director for Strategic Integration and Acting Director for Security, representing the office of Ms. Carol Haave, Deputy Under Secretary of Defense, Counterintelligence and Security, Department of Defense (DoD). I appreciate the opportunity to appear before you today to present testimony concerning the DoD security clearance backlog, reciprocity issues for Defense industry personnel, security clearance process improvements, and the status of the transfer of the personnel security investigations (PSI) function to the Office of Personnel Management (OPM).

The Department of Defense uses PSIs to ensure that only trustworthy and reliable individuals are granted access to classified information. The initial investigation provides assurance that a person has not demonstrated prior behavior that could be a security concern. The reinvestigation, conducted at specified time intervals after an initial investigation, is a periodic check designed to identify changes in behavior that may have occurred after the initial clearance was granted.

In the private sector, companies and their employees are processed for clearances under the auspices of the National Industrial Security Program (NISP). The NISP, created by Executive Order 12829, establishes a single, integrated cohesive system for safeguarding classified information held by industry. All Federal agencies participate in the NISP and most have delegated responsibility to the Secretary of Defense for the oversight of their contractors that require access to classified information. Only the Central Intelligence Agency, Department of Energy, and Nuclear Regulatory Commission have retained the authority and responsibility for their contractors for investigations, clearances, and program oversight. DoD, as the Executive Agent for the NISP, is responsible for industrial security policy that is conveyed to industry through the National Industrial Security Program Operating Manual (NISPOM).

The Department must have an affiliation with a private citizen before processing them for a personnel security clearance. For employees of DoD contractors, that relationship is established through the execution of a DoD Security Agreement, which is made a part of the contract with the company. Once the company has executed this agreement and is cleared, the company may process current employees or consultants for a background investigation if their duties will require access to classified information. The NISPOM also authorizes a contractor to submit a prospective employee for a clearance if that person has a written commitment for employment with a fixed date within the ensuing 180 days and the prospective employee has accepted the offer in writing.

Since 1986, DoD has routinely issued interim SECRET clearances to contractor employees who meet specified criteria based upon an initial review of their personnel security questionnaires. This review is conducted by the Defense Industrial Security Clearance Office (DISCO), the Defense Security Service (DSS) processing center for industry. DISCO reviews the information submitted on the clearance application, checks available databases to determine if the contractor

employee has a previous investigation that may be used to grant a clearance or, if there is no previous investigation, to determine if there is information that would indicate that it is not in the national interest to grant interim access without a completed investigation. If all factors are favorable, DISCO issues an interim clearance within 3 to 5 days of receipt of the request for investigation. If serious derogatory information is developed at any time during the course of the ensuing investigation, the interim clearance may be administratively withdrawn. The investigation, when completed, is sent to DISCO for final adjudication.

Approximately 85% of industry applicants are issued an interim clearance. For example, of the 152,059 requests for investigation from industry during FY03, approximately 85% of them were issued an interim clearance. An interim SECRET clearance authorizes access to SECRET information and most contractor employees can perform some functions with access to SECRET information, even if they ultimately require access to information of a higher level. DISCO also routinely issues interim TOP SECRET clearances when a favorable National Agency Check has been completed as part of the personnel security investigation (PSI).

DISCO has 76 trained adjudicators currently on board, an increase of 20 positions since September 30, 2003, and has been authorized an additional 28 adjudicative positions. DISCO adjudicators review the results of the investigation in accordance with the national adjudicative guidelines and issue the appropriate level of clearance. If DISCO is unable to make a determination that the issuance of a clearance is clearly consistent with the national interest, the case is referred to the Defense Office of Hearings and Appeals (DOHA) to provide the individual due process as required by Executive Order 10865. DOHA has also increased their adjudicative positions and has been able to significantly reduce the number of cases awaiting adjudication.

One of the key ongoing initiatives to improve PSI processing for industry is to expand DISCO's adjudicative role to serve as the nucleus for a single central adjudication facility (CAF) that will handle all adjudications for DoD cleared industry, to include trustworthiness and Sensitive Compartment Information (SCI) determinations. This plan, including the proposed structure, authorities, training, and resource details, should be finalized this calendar year.

DISCO electronically notifies industry when a clearance is issued and makes an entry in the DoD Joint Personnel Adjudication System (JPAS). JPAS is the DoD system of record for personnel security information for use by the DoD central adjudication facilities (CAFs), security managers, special security officers, and the DoD industrial security community and will ensure the standardization of core personnel security and adjudicative processes. JPAS achieved initial operating capability in February 2002. The inclusion of industry data in JPAS was initially impeded by the system configuration challenges of the DSS Case Control Management System (CCMS), resulting in repeated delays in exporting the information into JPAS. In September 2003 we were finally able to successfully import over 800,000 industrial personnel security clearance records from CCMS into JPAS. JPAS is now available to all of cleared industry security personnel and will become industry's system of record for clearance eligibility and access by September 2004. Currently, industry users are in the process of validating the data in the system to ensure that the information accurately depicts the security records of their cleared employees.

Use of JPAS will significantly reduce certain clearance processing actions. Once registered and online, companies will be responsible for maintaining their own security records and accomplishing transfers, reinstatements, and conversions of clearances for their employees. JPAS provides an automated view of an individual's clearance eligibility and access, and allows industry to immediately grant collateral access at the specified clearance level, record the access into JPAS or to terminate access, as appropriate. As of April 24, 2004, there were 4,377 industry JPAS users out of a population of approximately 11,500 cleared companies.

Currently, the NISPOM authorizes the transfer, conversion or reinstatement of a personnel security clearance (PCL) provided no more than 24 months has elapsed since the date of termination of the clearance. If the contractor is not using JPAS, the NISPOM requires that the contractor notify DISCO of the request for transfer, conversion or reinstatement and DISCO provides the authority to grant the employee access to classified information. However, in January 1999, the Director of Security issued a waiver, which is still in effect, to this NISPOM requirement allowing the contractor to verify from the losing contractor or government activity that the employee was cleared and the level of the clearance. Based upon this information, the contractor is authorized to grant immediate access to the employee at the verified clearance level. Industry has advised that they "are confident in estimating that tens of thousands of cleared employees have been able to begin new assignments with their clearances intact on day one." As a side benefit, DISCO is able to focus their adjudicative resources on issuing interim and final clearances rather than processing reinstatements and conversions.

It is important to note that the NISPOM defines reciprocity as follows:

"Federal agencies that grant security clearances (TOP SECRET, SECRET, CONFIDENTIAL, Q or L) to their employees or their contractor employees are responsible for determining whether such employees have been previously cleared or investigated by the Federal Government. Any previously granted PCL that is based upon a current investigation of a scope that meets or exceeds that necessary for the clearance required, shall provide the basis for issuance of a new clearance without further investigation or adjudication unless significant derogatory information that was not previously adjudicated becomes known to the granting agency."

DoD ensures reciprocity through the transfer, reinstatement and conversion policies outlined above and by accepting background investigations and security clearance determinations from all other federal departments and agencies for access to equivalent levels and below. Based on our experience, the majority of industry reciprocity issues brought to our attention have involved access to special access programs (SAP), Sensitive Compartmented Information (SCI), or the practice on the part of other Federal agencies to review other government investigations and adjudications before granting access. SAP and SCI are programs requiring additional risk determinations prior to approving access and these access determinations are made by the services and intelligence agencies for military, civilian *and industry cases*.

Currently, funding for NISP contractor PSIs is provided through the Defense-wide Operating & Maintenance (O&M) appropriation. Based on a proposal to directly charge contractors for their PSIs, DoD conducted a study during FY 2003 to examine this alternative. That study concluded

that the Department would pay an additional 34% over its current costs for industry PSIs while directly shifting those costs to DoD procurements. Based upon that study, it was agreed that the current funding through O&M appropriations would continue. This approach requires a system that matches requirements to funding during the planning and budgeting process. In order to improve this process, JPAS will include a verification and validation module that will assist in predicting, verifying and validating future and continuing investigative requirements. Additionally, as part of the e-Acquisition initiative, DoD is working on details of a plan that will link investigative requirements to the contract specifications identified in the Contract Security Classification Specification (DD Form 254), and require contracting officer validation. This system will directly link more precise requirements to the budget process, yet allow for adjustments as necessary for unique contractual performance or modifications to contract.

FUTURE PLANS:

DoD is pleased that Congress supported and authorized the option to transfer the PSI function, including Defense Security Service (DSS) PSI employees to the Office of Personnel Management (OPM) in the National Defense Authorization Act for FY 2004. We understand that the Director of OPM has statutory discretion to accept or decline the full transfer of function from DoD, and that no final decision has been made at this time by the Director of OPM.

This initiative, as reflected in the President's Budget for FY 2004, was determined to offer the greatest opportunity to address the fundamental problems underlying the DoD PSI backlogs of prior years and the increasing demand for investigations throughout the entire Federal government. As the result of several studies, it was assessed that the consolidation of the PSI function would standardize investigations within the federal government, facilitate and expedite reciprocity and leverage public and private investigative resources to expand capacity.

Approximately 18 months ago DoD began to identify and address the actions necessary in anticipation of the potential transfer of the PSI function. One of our key objectives was to move the workforce to a common information system. With OPM'S agreement, we have moved forward to train the DSS personnel and to begin processing DoD investigations on OPM's Personnel Investigation Processing System (PIPS). By doing so, DoD takes immediate advantage of PIPS operating efficiencies and benefits investigators in particular by allowing them improved access to current information and improved insight into cases on a nationwide basis.

This interim agreement provides for case processing services and the use of the OPM computer system for the processing of DoD investigations. Currently, DSS investigative personnel are being trained on PIPS with the expectation that all DSS PSI personnel will be trained on the system by the end of June 2004. Those DSS personnel trained on PIPS have already begun to use the system to process DoD investigations. These interim efforts will ease the transition of operations should the final transfer occur and help focus our efforts on our ongoing e-government initiatives and other efforts to increase the capacity of the private sector to meet investigative demands. Additionally, DSS employees at the Personnel Investigations Center (PIC) are being retrained from scoping investigative leads to quality control services, as PIPS provides us with enhanced features with respect to investigative scoping.

One of the issues that has been of great concern to DoD and OPM has been inadequate investigative capacity to meet the demand for investigations government wide. To illustrate, DSS currently has approximately 1,200 investigators out of 1,855 PSI personnel. OPM's current investigative contract provider, United States Investigative Service (USIS), has approximately 2,900 investigators. Because some contractor investigators work for multiple private sector contractors, we estimate that the total investigative capacity of the federal workforce and private sector providers is approximately 5,300 in total. *Our assessment, based on current and predicted requirements, is that about 8,000 investigators are needed to meet federal investigative requirements.* We are moving forward on efforts to improve this situation. DSS is in the process of hiring an additional 200 investigators, and hopes to have these personnel on-board within 90 to 120 days. In addition, DSS has restructured their PSI organization to realign management to field (on-street) investigator positions. We understand that OPM also has efforts underway to add more private sector contract suppliers.

The timeliness of investigations is the measure most sensitive to any disturbance in the process, the measure that receives the most attention and is most disruptive to continuity of operations. We understand these concerns and have established the following investigative timelines: *95% of each case type* are to be completed as follows:

- *75 days* for initial investigations and reinvestigations for access to Secret and Confidential information,
- *120 days* for initial Top Secret, and
- *180 days* for Top Secret periodic reinvestigations,
- *With no case over a year old.*

Any future "backlog" within DoD will be defined as any case that exceeds these specified timeframes.

We understand that the "backlog" of old investigations pending completion at DSS and OPM has been an overriding concern for you. DoD has made great strides in eliminating this "backlog" of pending work. DSS investigative personnel have worked diligently to complete and close the oldest and most difficult investigations while beginning to process incoming Fiscal Year (FY) 2004 work using OPM's PIPS system. DSS personnel began actively working these cases, previously held at the CCMS gateway, in February 2004. Between October 2003 and to the present, DSS concentrated on completing all prior year work, which numbered over 250,000 investigations as of the beginning of fiscal year 2004. As of April 2004, DSS had successfully completed all but approximately 86,700 prior year investigations, of which 28,600 are for industry. At Attachment 1 is a chart that reflects pertinent statistics with respect to the status of industry investigations.

Through the phased transfer of DoD work to OPM's PIPS, we have eliminated the necessity to convert investigative files from one system to another and thus have avoided significant future delays in processing time. DSS predicts that all prior year (pre-FY 2004) work will be completed by the end of September 2004, and that no cases will be over one year old with the exception of some investigations on deployed personnel. DSS has also spent considerable effort identifying bottlenecks in the processing of investigations, and has determined that third party and overseas leads have been a major impediment to case completion times. Because the largest

backlog of records checks was at the FBI, DSS placed resources at the FBI to conduct and expedite the required records checks on DSS cases. As a result of these efforts, we expect the backlog of FBI checks to be current within the next few weeks.

The conduct of overseas leads traditionally has been accomplished by the military services. However, due to increased requirements on the military services in support of the war on terrorism, these competing demands diminished the support the military services were able to provide to conduct overseas work. To compensate, during March 2004, DSS began sending investigative personnel to Europe and to the Far East on an intermittent basis to conduct overseas leads. DSS is now developing a long-term plan to address the conduct of overseas investigations either by stationing personnel overseas or sending teams of investigators to specific locations on a 3-6 month rotational basis to conduct overseas investigations. DoD is also working with the State Department to update and refine the scope and sources for overseas investigations. The end result will be a more definitive and updated scope for overseas investigations on a government-wide basis. As part of this effort, we are also looking into database sources that may assist us in the conduct of overseas investigations.

Key Initiatives to improve the end to end PSI process:

Several key initiatives are underway within the Department of Defense to transform and significantly improve the end-to-end PSI process from identification of the requirement for an investigation through the final adjudication. These initiatives include:

Phased Periodic Reinvestigations:

In 2001, DoD began working on improvements to the single scope background investigation - periodic reinvestigation (SSBI-PR). As background, the Defense Personnel Security Research Center conducted initial research on the productivity of certain specified investigative sources in the SSBI-PR. Their research suggested the two-phased approach to the SSBI-PR, similar to medical screening where findings of initial tests determine if follow-up tests are required, was a valid alternative. During FY03 DoD conducted a pilot test of this phased approach. The results reflected that the phased SSBI-PR saves substantial resources with minimal loss of derogatory information. Recently, DoD presented the results of this pilot test to the Personnel Security Working Group (PSWG) under the Policy Coordinating Committee on Records Access and Information Security of the National Security Council (NSC). We are confident that the results will speak for themselves and that PSWG, representing the entire security community, and the National Security Council (NSC), will approve the Phased PR as part of the national investigative standards.

Automated Continuing Evaluation System (ACES):

ACES, an automated assessment tool, is designed to identify issues of security concern on cleared personnel between the specified periodic reinvestigations (5 years for Top Secret access, 10 years for Secret, and 15 years for Confidential). Through ACES, and with the consent of the individual, specified databases will be searched to identify information that assists in the

evaluation of cleared individuals in order to determine their suitability for continued access to classified information. ACES will automatically identify and schedule cleared personnel for a series of database checks that include: credit reports, FBI criminal history, Treasury large currency transaction filings, foreign travel, and real estate ownership records. The report produced by the database will be electronically forwarded to the appropriate DoD CAF for review and adjudication, as necessary. As additional appropriate data sources are identified or become available, DoD will conduct the necessary research, testing, and programming to include them as part of ACES.

Initially, ACES checks will be conducted on personnel holding TS/SCI clearances at the mid-point between their reinvestigation cycle of five (5) years. However, within the next few years, DoD will conduct an annual ACES check on individuals holding all levels of clearance. Eventually, it is hoped that ACES will provide a means to eliminate the periodicity of reinvestigations and transform the personnel security process into a proactive, risk-managed process.

e-QIP

As an active participant and advocate for the e-Government/e-Clearance initiative, DoD will transition this fiscal year from the electronic personnel security questionnaire (EPSQ) system to e-QIP, the on-line, web-based e-clearance investigation request form developed by OPM. Thereafter, DoD components will be required to use eQIP for submitting investigative requests. Verification and validation of the request will be accomplished up front through the JPAS interface. An essential and important part of this effort includes the pre-population of e-QIP from information on an individual's most recent EPSQ, where available. Data submitted through this electronic submission will remain on e-QIP and can be revised and updated by these individuals on-line.

Electronic Report for Adjudication (e-RFA)

The DoD Personnel Security Research Center is also conducting a study to develop criteria for *electronic adjudication*, using the electronic Report for Adjudication (e-RFA) as the foundation. DoD is working with OPM to expedite the e-RFA that provides for the electronic submission of the investigative report to the adjudicative facilities to allow for on-line review and adjudication, except in those instances when manual processing may be required due to significantly derogatory information. We estimate that e-RFA will reduce the overall processing time for adjudication and we are looking forward to implementation of this improvement.

CONCLUSION:

We have been working diligently over the past several years to meet the needs of our DoD customers, including industry. We owe a great deal to our industry partners who keep us informed of their concerns and upon whom we rely heavily for recommendations and feedback.

Although slow in coming, I believe that significant progress has been made in improving the PSI process and that industry will soon benefit from our key initiatives. There is much more to be accomplished, and we will continue to work with industry to ensure we understand and address their concerns. We will continue our outreach to industry to keep them informed of our progress on PSI process improvements.

Mr. Chairman, I ask for your continued patience, support and assistance as we proceed to implement the changes that are required to improve the end-to-end PSI process. I appreciate the opportunity to appear before this Committee today and I will be pleased to answer any questions that you may have at this time.

Attachment 1

Industry PSIs

	Total Number Submitted	% Completed within target days	% Completed within 360 days*
Prior Years			
NACLCs (75 days)			
FY01	77,113	15%	76%
FY02	97,419	50%	89%
FY03	102,783	34%	97%
SSBIs (120 Days)			
FY01	11,662	7%	54%
FY02	17,751	22%	86%
FY03	21,905	15%	99%
TS PRs (180 days)			
FY01	16,566	8%	49%
FY02	23,272	29%	74%
FY03	23,029	18%	87%
*%'s pertain to DSS closings only - for cases received in the FY			

	Total Number Complete Packages Submitted	% scheduled to field
FY04 through April 24		
SSBIs and SIIIs	7,083	41%
TS PRs	5,260	16%
NACLCs	32,862	27%
Total	45,205	

Improvement Targets	Total Number Projected to be Submitted	% Completed within target days	% Completed within 360 days*
NACLCs (75 days)			
FY04	117,429	50%	98%
FY05	119,778	80%	100%
FY06 and out	122,173	95%	100%
SSBIs (120 Days)			
FY04	28,374	50%	98%
FY05	29,793	80%	100%
FY06 and out	31,282	95%	100%
TS PRs (180 days)			
FY04	23,029	50%	98%
FY05	24,200	80%	100%
FY06 and out	42,200	95%	100%

NACLC: National Agency Check with Local Agency Checks and Credit Check
Initial and reinvestigation for access to Secret and Confidential information

SSBI: Single-scope Background Investigation
Initial investigation for access to Top Secret information

TS PR: Top Secret Periodic Reinvestigation
Reinvestigation for access to Top Secret information